THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.7645 of 2001

Dated: 03.10.2007

Between:

Venepally Venkateshwar Rao
and another. .. Petitioners

And

The District Collector,
Nalgonda, Nalgonda District
and others.

.. Respondents

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.7645 of 2001

ORDER;

The petitioner approached this Court and filed the present writ petition seeking a writ of Mandamus by directing the respondents to reduce the overflow rock sluce "Alugu" so as to prevent the submergence of the petitioners' lands under it or else pay the compensation as per the Land Acquisition Act by fixing the time limit and pass such other order or orders as it may deem fit and proper in the circumstances of the case.

2. The case of the petitioners is that they own Ac.0.25 gts. and 2.05 gts. respectively in Survey No. 32 & 317. Their main grievance is that due to raising of the bund level Alugu about three years back, their lands under Veerladevi Peda Cheruvu of Bethavolu village have come under the submergence area of the tank. They also contend that having issued them the certificate of submergence, the respondents are bound to initiate action under the Land Acquisition Act, 1894 (for short 'the L.A.Act') and pay them due compensation as per law. They further stated that they made representations on 10.08.1992, 01.05.1995, 22.09.1997 and 26.06.1998 besides approaching the Revenue and Irrigation authorities to settle their claim for payment of compensation under the L.A. Act, but none of the authorities have taken any steps to redress their grievances.

In paragraph 5 and 6 of the affidavit filed in support of the writ

petition, the petitioners also stated that they, having become landless and having no source of livelihood, started fishing in the said Cheruvu and could earn some money. While so, the 4th respondent's Fishing Society and its members started harassing them and also interfering with their fishing operations on the ground that they are not the members of their society and they cannot undertake fishing operations in the said Cheruvu, and also that, at the instigation of the Fishing Society, the revenue authorities are prohibiting the petitioners from their fishing operations. Hence, this writ petition.

3. The first respondent filed a detailed counter stating that the lands of the petitioners do not fall under the water spread (submergence) area of Veerladevi Cheruvu and that the said Cheruvu of Bethavolu village was formed about 200 years back. It is also contended that neither the height of the bund nor the height of the weirs were raised by the respondents at any time after its formation for additional storage, as such, the allegation of the petitioners that the Irrigation Department raised the bund level about three years back is baseless. Further, it is stated that as no additional lands, much less the petitioners lands, have come under submergence area of the said tank, the claim of the petitioners that the respondents are bound to initiate action under the L.A.Act and pay them due compensation as per law is untable. More over, the petitioners are having other lands in Sy.No.11, 62, 63, 64, 269 and 317 over an extent of Ac.0.39 gts and 4.25 gts respectively, other than the lands in an extent of Ac.1.15 gts and 6.25 gts respectively in Sy.No.32 & 317 at Kondapuram village of Chilkur Mandal, as such, the contention of the petitioners that they are landless persons is false.

In paragraph 6 of the counter, it is specifically stated by this respondent that as the petitioners are not the members of the

Fishermen Cooperative Society nor do they own lands in the tank-bed, they are not entitled to carry out fishing operations in the said tank, as it was leased out to the Fishermen Cooperative Society.

4. A detailed counter affidavit is filed by the 4th respondent stating that the allegation of the petitioners that their lands are submerged in the tank is absolutely false and the petitioners are not deprived of their lands. It is stated that the petitioners do not have any right of fishing in the tank, as the tank in question is in the area of operation of Fishermen Cooperative Society, Bethavolu. It is also stated that the petitioners are attempting to interfere with the fishing operations of the members of the Fishermen Cooperative Society, Bathavolu over their area of operation, including the tank in question. It is further stated that under the guise of interim order, there is interference in the fishing activity of members of the said Society and there is a sort of blackmail attempt being made by the petitioners to grab money from this respondent.

5. Heard the learned counsel for the petitioner, the Government Pleader for Irrigation and Sri K.Raghuveera Reddy, learned counsel appearing for R-4.

6. Having heard both the counsel and also taking into consideration the fact that the representations given by the petitioners are very much pending with the 1st respondent, the 1st respondent is hereby directed to consider the same as expeditiously as possible and pass appropriate orders in accordance with law.

7. Accordingly, the writ petition is disposed of. No order as to costs.

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(GOPALA KRISHNA TAMADA,J)

Dt.03.10.2007

v v